IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 5TH JUNE 2007 / 15TH JYAISHTA 1929

WP(C).No. 14443 of 2004(T)

OS.114/2001 of MUNSIFF COURT, HOSDRUG

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PETITIONER:

P.NARAYANA, S/O.KORAN,
CHERUVANCHERRY, KADANNAPPALLY,
KADANNAPPALLY VILLAGE, TALIPARAMBA TALUK.

BY ADV. SRI.M.SASINDRAN
SRI.T.P.ELDHO

RESPONDENTS:

U.V.AHAMMED S/O.LATE M.K.MOIDEEN,
KOTTANCHERY, BELLA VILLAGE, HOSDURG TALUK.

BY ADV. SRI.JAWAHAR JOSE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P. (C) No. 14443 of 2004 APPENDIX

Ext.P1: A true copy of the plaint O.S. No. 114 of 2001

Ext.P2: A true copy of the written statement

Ext.P3: A true copy of the application filed on 7-4-2004

//True copy//

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M.N. KRISHNAN, J.

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W.P.C. NO. 14443 OF 2004

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Dated this the 5th day of June, 2007.

J U D G M E N T

This writ petition is filed seeking a direction to the Munsiff Court, Hosdurg not to commence trial of O.S.114/01 before the disposal of I.A.928/04 and to direct the Munsiff Court, Hosdurg to pass orders in I.A.928/04. During the pendency of the writ petition the sole plaintiff/respondent died and a petition has been filed to implead the legal representatives as respondents 2 to 7. Except R5, everybody is served and there is substantial representation for the plaintiff and therefore I am allowing the application for impleadment and record respondents 2 to 7 as the legal representatives of deceased plaintiff.

2. Now the question to be considered is regarding the prayer to give direction. I.A.928/04 is an application filed to amend the written statement. The trial court has not disposed of the same on the ground that the trial has already commenced. When an application for amendment is filed it is a paramount duty of the Court to consider the same and dispose it of in one way or the other and it cannot be kept pending to be disposed of along

with the suit. Since the original plaintiff is dead, the present plaintiff is directed to take steps to amend the plaint and similarly the writ petitioner is directed to take steps to amend I.A.928/04. Therefore, a direction is given to the Munsiff Hosdurg to dispose of I.A.928/04 after hearing both sides. The trial court is also directed not to proceed with the trial of the case further until I.A.928/04 is disposed of and this be done in a time frame, i.e. within a period of two months from today.

The Writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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